



Control Number: 39000



Item Number: 17

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**DOCKET NO. 39000**

<b>APPLICATION OF MID-TEX</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>CELLULAR, LTD. TO AMEND</b>	<b>§</b>	
<b>DESIGNATION AS AN ELIGIBLE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>TELECOMMUNICATIONS CARRIER</b>	<b>§</b>	
<b>PURSUANT TO P.U.C. SUBST. R.</b>	<b>§</b>	
<b>§26.418 AND FOR DESIGNATION AS</b>	<b>§</b>	
<b>AN ELIGIBLE</b>	<b>§</b>	
<b>TELECOMMUNICATIONS</b>	<b>§</b>	
<b>PROVIDER PURSUANT TO PUC</b>	<b>§</b>	
<b>SUBST. R. §26.417</b>	<b>§</b>	

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FILING CLERK

**ORDER NO. 4**  
**NOTICE OF APPROVAL TO AMEND DESIGNATION AS**  
**AN ELIGIBLE TELECOMMUNICATIONS CARRIER AND**  
**FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS PROVIDER**

**Procedural History**

On December 20, 2010, Mid-Tex Cellular, Ltd. (Mid-Tex) filed an application to amend its designation as an eligible telecommunications carrier (ETC) under 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418, and for designation as an eligible telecommunications provider (ETP) under PURA<sup>1</sup> § 56.023 and P.U.C. SUBST. R. 26.417. Mid-Tex is a facilities-based provider of Commercial Mobile Radio Service (CMRS). In Docket No. 30666, Mid-Tex received ETC designation throughout the rural telephone company study areas of Coleman County Telephone Cooperative, Inc. (CCTC) and Totelcom Communications, LLC (Totelcom).<sup>2</sup>

Mid-Tex requests an amendment to its ETC designation to expand the service area to include the following twelve non-rural telephone company wire centers served by Verizon Southwest: Miles, Rowena, Ballinger, Winters, Coleman, Lake Brownwood, Bangs, Brownwood, Zephyr, Blanket, Comanche, Goldthwaite, and Gustine. In addition, Mid-Tex seeks to be designated as an ETP throughout the Verizon wire centers identified above as well as throughout the rural telephone company study areas served by CCTC and Totelcom, where

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<sup>1</sup> Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2010) (PURA).

<sup>2</sup> *Application of Mid-Tex Cellular, Ltd. for Designation as an Eligible Telecommunications Carrier (ETC)*, Docket No. 30666 (Aug. 9, 2005).

Mid-Tex was granted ETC designation in Docket No. 30666. The wire centers where Mid-Tex wishes to be designated as an ETC and ETP are identified in Attachments D and E to the application.

No parties sought intervention in this proceeding. Mid-Tex sought a waiver of P.U.C. SUBST. R. 26.417(c)(1)(A) so that its ETC and ETP applications may be processed simultaneously.

On December 21, 2010, the Commission issued Order No. 1 in this proceeding which established a procedural schedule, including deadlines for comment, motions to intervene, and publication of notice in the *Texas Register*. Notice was published in the *Texas Register* on January 7, 2011. The Applicant provided a copy of the application to the Office of Public Utility Counsel at the time of filing. Pursuant to P.U.C. SUBST. R. 26.417(f)(2)(A)(i) and 26.418(g)(2)(A)(i), the effective date shall be no earlier than 30 days after the filing date of the application or 30 days after notice is completed, whichever is later.

On January 19 and 25, 2011, the Applicant filed supplements to the application. On February 14, 2011, Commission Staff filed its recommendation requesting administrative approval of the application for ETC and ETP status for Mid-Tex. On February 17, 2011, Mid-Tex filed a supplement to the application to revise the list of Verizon Southwest wire centers listed in paragraph 8 of the application to include the Goldthwaite wire center consistent with Attachment D of the application. On February 28, 2011, Commission Staff filed a supplemental recommendation of approval.

Commission Staff recommends application of the application, as amended and supplemented, based on the following:

**Designation as Eligible Telecommunications Carrier**

To qualify for ETC status, a carrier must meet the following criteria:<sup>3</sup>

1. The carrier must be a common carrier, as that term is defined by the Federal Telecommunications Act of 1996 (FTA), Section 3(10).

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<sup>3</sup> 47 C.F.R. § 54.201(b)-(d).

2. The carrier must offer the following services<sup>4</sup> using its own facilities or a combination of its own facilities and the resale of another carrier's services:<sup>5</sup>
  - (a) voice grade access to the public switched network;
  - (b) local usage;
  - (c) dual tone multi frequency signaling or its functional equivalent;
  - (d) single party service or its equivalent;
  - (e) access to 911 or enhanced 911;
  - (f) access to operator services;
  - (g) access to interexchange service;
  - (h) access to directory assistance; and;
  - (i) toll limitation for qualifying low income customers.
3. The carrier must advertise the availability of the above services and charges for the services in a media of general distribution.<sup>6</sup>
4. The carrier must provide Lifeline and Link Up support, and may not collect a deposit from a customer receiving such support if the customer also elects toll blocking.<sup>7</sup>

Mid-Tex meets all of the requirements to be designated as an ETC.

**Designation as Eligible Telecommunications Provider**

To qualify for ETP status a carrier must meet the following criteria:

1. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(I) requires carriers applying for ETP status to meet the definition of a telecommunications provider as defined in PURA § 51.002(10). Mid-Tex meets this definition.
2. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(II) requires carriers applying for ETP status to show that they have been granted ETC status for federal universal service support pursuant to 47 U.S.C. § 214(e). ETC and ETP designations are being handled concurrently in this docket.
3. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires carriers to specify the small or rural incumbent local exchange company (ILEC) service area in which they

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<sup>4</sup> 47 C.F.R. § 54.101.

<sup>5</sup> 47 C.F.R. § 54.201.

<sup>6</sup> 47 C.F.R. § 54.201.

<sup>7</sup> 47 C.F.R. § 54.405.

propose to be an ETP. Mid-Tex seeks designation in select wire centers of the non-rural ILEC Verizon Southwest and the study areas of the rural ILECs CCTC and Totelcom Communications, LLC (f/k/a Comanche County Telephone). A list of the wire centers and study areas are included in Attachment D of the application.

4. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires applicants for ETP status to show that they offer the designated services defined in P.U.C. SUBST. R. 26.403 throughout the Texas High Cost Universal Service Provider or small and rural ILEC service area for which the carriers seek ETP status. The designated services required for ETP status are:

- (a) flat rate, single party service, including primary directory listings;
- (b) tone dialing;
- (c) access to operator services;
- (d) access to directory assistance services;
- (e) access to 911 service when provided by local authority;
- (f) dual party relay service;
- (g) ability to report service problems seven days a week;
- (h) availability of annual local directory;
- (i) access to toll services; and
- (j) Lifeline and Link Up services.

Mid-Texas meets these requirements.

5. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) also requires applicants to assume the obligation to provide the services required under P.U.C. SUBST. R. 26.403 to any customer. Mid-Tex states that it meets and assumes the responsibility to offer the basic services defined in P.U.C. SUBST. R. 26.403 to all customers in its exchanges. Mid-Tex meets these requirements.
6. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(IV) requires that applicants show they offer the designated services through a means other than total resale. Mid-Tex stated that it will utilize its own equipment or a combination of its own facilities and other carriers' facilities. Mid-Tex owns and operates its own switching facility and cellular network and provides service using its own transmission and routing facilities.

7. P.U.C. Subst. R. 26.417(f)(1)(B)(i)(V) – (VI) requires applicants to show that they have offered continuous service that meets the quality of service standards in P.U.C. SUBST. R. 26.52 - 26.54, and that they offer Lifeline and Link-Up services in compliance with P.U.C. SUBST. R. 26.412. Mid-Tex meets these requirements.
8. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(VII) requires applicants to advertise the availability of, and charges for, the designated services using media of general distribution. Mid-Tex meets this requirement.
9. P.U.C. SUBST. R. 26.417(d)(2) provides that the Commission may designate an additional ETP in a small or rural ILEC study area if it is in the public interest. Mid-Tex is not seeking ETP designation in a small or rural ILEC study area.

Mid-Tex has also committed to offering the required designated services at a rate not to exceed 150% of the ILEC's tariffed rate in the same designated areas pursuant to the requirements of P.U.C. SUBST. R. 26.417(c)(1)(B).

Commission Staff's analysis of the application concludes that Mid-Tex meets the requirements established by P.U.C. SUBST. R. 26.417 for designation as an ETP.

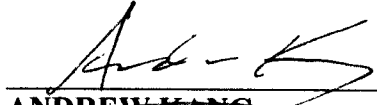
### **Ordering Paragraph**

In accordance with Commission Staff's recommendation and for all the reasons stated therein, pursuant to the FTA § 214(e)(2) and P.U.C. SUBST. R. 26.418, Mid-Tex's application to amend its ETC designation, as amended and supplemented, is **APPROVED**. Mid-Tex is granted an amendment to its ETC designation to include the following twelve wire centers served by the non-rural ILEC Verizon Southwest: Miles, Rowena, Ballinger, Winters, Coleman, Lake Brownwood, Bangs, Brownwood, Zephyr, Blanket, Comanche, Goldthwaite, and Gustine.

Pursuant to PURA § 56.023 and P.U.C. SUBST. R. 26.417, Mid-Tex's application for ETP designation, as amended and supplemented, is **APPROVED**. Mid-Tex is granted designation as an ETP for the wire centers served by the non-rural ILEC Verizon Southwest and the study areas of the rural ILECs served by CCTC and Totelcom as listed on Attachment D of the application.

SIGNED AT AUSTIN, TEXAS the 2<sup>nd</sup> day of March 2011.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
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**ANDREW KANG**  
**ADMINISTRATIVE LAW JUDGE**

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